CONSTITUTION OF THE CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA

PREAMBLE

The Tlingit and Haida Indian Tribes of Alaska, in order to form a single regional tribal entity, preserve their identity as Indian Tribes and the identity and culture of their tribal member citizens and descendants as Indian people, provide for the exercise of their tribal sovereignty and the government of the property and affairs of the Tribes, and promote the dignity and welfare of the tribal member citizens, do ordain and establish this ***Constitution*** of the Central Council of Tlingit and Haida Indian Tribes of Alaska.

ARTICLE I. TERRITORY AND JURISDICTION

In conformance with applicable federal law, the territory and jurisdiction of the Central Council of Tlingit and Haida Indian Tribes of Alaska (hereinafter referred to as the "Central Council" or the "Tribe") shall include:

Section 1. All lands, islands, waters, airspace, or any interest therein within the boundaries of any reservation which may be established for the Tribes, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, and including lands in Alaska conveyed under the Alaska Native Claims Settlement Act (ANCSA), as amended.

Section 2. All dependent Indian communities, including lands, islands, waters, airspace, or any interest therein, as established pursuant to the *Rules of Election*.

Section 3. All lands, islands, waters, airspace, or any interest therein now or hereafter held in trust status for the Tribe, or for any enrolled tribal member citizen thereof, whether inside or outside the boundaries of any established reservation or any dependent Indian community, and including lands in Alaska conveyed under ANCSA, as amended.

Section 4. All persons, property and activities within the Tribe's territory and jurisdiction.

ARTICLE II. SOVEREIGN POWERS AND RECOGNITION

The Tribe is established pursuant to the inherent sovereign authority of the Tlingit and Haida Indian Tribes of Alaska. The Tribe is recognized by the United States of America as a federally recognized tribal government pursuant to Section 8 of the Act of June 19, 1935 (49 Stat. 388), as

amended by the Act of August 19, 1965 (79 Stat. 543), and the Act of November 2, 1994 (Public Law 103-454, 108 Stat. 4792). The Tribal Assembly of the Central Council is the general legislative and governing body of the Tribe. Its functions are to secure, preserve and exercise the sovereign rights, powers, authorities, privileges, and immunities of the Tribe and all such other rights, powers, authorities, privileges, and immunities as the Tribe shall possess or be granted, to maintain a roll of and promote the welfare of the member citizens of the Tribe, and to legislate for and govern the Tribe and its member citizens.

ARTICLE III. MEMBER CITIZENSHIP

Section 1. The member citizens of the Tribe shall be:

a. All living persons included on the roll prepared by the Secretary of the Interior pursuant to Section 8 of the Act of June 19, 1935 (49 Stat. 388), as amended by the Act of August 19, 1965 (79 Stat. 543); and

b. All other living persons of Tlingit or Haida blood:

1) Who were legal residents of the Territory of Alaska on June 19, 1935, or prior thereto, or who are descendants of such persons, and

2) Who duly apply for member citizenship in the Tribe and show to the satisfaction of the Central Council that they are eligible therefor.

Section 2. The Central Council shall have power to enact a statute governing member citizenship, including enrollment and deletion of names improperly included on the tribal roll; provided, that any person who believes he or she has been incorrectly deleted from the tribal roll shall be entitled to a hearing before the Tribe's Supreme Court, shall be given reasonable notice of the hearing, and shall have the opportunity to testify and present evidence on his or her own behalf. The decisions of the Tribe's Supreme Court as to member citizenship shall be considered final.

ARTICLE IV. DELEGATES TO THE TRIBAL ASSEMBLY

Section 1. The Tribal Assembly of the Central Council shall be composed of delegates from the Communities of Tlingit and Haida Indian Tribes listed in the *Rules of Election* adopted and approved as provided in Section 7 of the Act of June 19, 1935, as amended, who shall be elected in accordance with such *Rules* and Article III of this *Constitution.*

Section 2. A delegate to the Tribal Assembly shall be removed from such office upon conviction of a felony while in office or may be removed from such office by affirmative vote of a two-thirds (2/3) majority of the delegates for any of the following reasons:

a. Failure of the delegate to satisfy the requirements for holding office as provided in the *Rules of Election*;

b. Absence of the delegate without good reason from three (3) consecutive days of any Tribal Assembly annual meeting for which proper notice was given and granted by the Central Council;

c. Gross misconduct in office or neglect of duty by the delegate after his or her election to the office of delegate;

d. Physical or mental incapacity of the delegate to perform the duties of the office of delegate.

Before any vote is taken to remove a delegate, the delegate shall be provided with a written statement of the charges against the delegate at least ten (10) days before the meeting of the Tribal Assembly at which the vote is taken, and shall be given a fair opportunity to be heard before the Tribal Assembly in answer to such charges prior to the vote being taken. Any delegate who believes he or she has been incorrectly removed from office shall be entitled to a hearing before the Tribe's Supreme Court, shall be given reasonable notice of the hearing, and shall have the opportunity to testify and present evidence on his or her own behalf. The decisions of the Tribe's Supreme Court as to removal shall be considered final.

ARTICLE V. DELEGATE ELECTIONS

Section 1. General elections of delegates to the Tribal Assembly of the Central Council shall be held every even-numbered year on the third Thursday in March.

Section 2. Subject to the *Rules of Election* and the approval of the Central Council, each Community entitled to elect delegates to the Tribal Assembly shall prescribe its method of election.

Section 3. In the absence of an approved election procedure for a Community, the Central Council shall appoint the members of the Local Election Committee for that Community from the names appearing on the current list maintained by Central Council of eligible voters in the Community.

Section 4. A vacancy occurring during the term of office of a delegate to the Tribal Assembly shall be filled by the Local Community Council.

Section 5. The Central Council shall enact a statute which, in conformity with this *Constitution,* governs general and special elections, petitions for recall, initiative, referendum, and procedures for the consideration and adoption of constitutional amendments. The statute shall provide for all aspects of general and special elections, including secret ballot, absentee voting, temporary absence from the community, notice of election, notice of nomination of candidates, election appeal, and certification of elections.

ARTICLE VI. TRIBAL ASSEMBLY

Section 1. The delegates of the Tribal Assembly shall regularly assemble each year commencing on the third Thursday in April except:

a. In each year that delegate elections are held, the Tribal Assembly will commence at 1:00 p.m. on the third Wednesday of April;

b. In each year that the Easter weekend falls upon the third Thursday in April, the Tribal Assembly will commence on the second Thursday of April, and

c. Unless for a particular year the Central Council shall designate another day for the commencement of the Tribal Assembly.

Section 2. The Tribal Assembly shall be held in Juneau each year that delegate elections are held and may be held in another Community in a non-election year upon invitation by that other Community through resolution at the preceding election year Tribal Assembly.

Section 3. Special assemblies of the Tribal Assembly may be called by the President, or by the Executive Council, or by notice supported by not less than one-fourth of the delegates. Calls and notices for a special assembly shall set forth the purpose for such assembly but at such special assembly the Central Council may transact any other business or take any other actions within its powers.

Section 4. At all assemblies of the Tribal Assembly a quorum shall consist of a majority of those holding the office of delegate and no business shall be transacted unless a quorum is present. All assemblies shall be conducted in conformance with this *Constitution*, "Convention Rules" adopted by the Central Council, and *Robert's Rules of Order.* Any conflict among the preceding authorities shall be resolved by in the order of precedence set forth in the preceding sentence.

ARTICLE VII. POWERS OF THE GOVERNING BODY OF THE TRIBE

Section 1. The governing body of the Central Council shall be comprised of the Tribal Assembly of delegates, and, consistent with the terms of this Constitution, the Executive Council. The governing body of the Central Council shall possess sovereign and plenary power to legislate for and to govern, conduct and manage the affairs and property of the Tribe, including, without limitation, the following:

a. To maintain a roll of the member citizens of the Tribe and to decide upon the qualifications and applications of persons seeking member citizenship in the Tribe.

b. To purchase, lease, take by gift, grant, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with money, securities, real and personal property, rights and services of any kind and description, or any interest therein, including any property obtained pursuant to the Alaska Native Claims Settlement Act, as amended.

c. To sell, convey, grant, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its real and personal property and assets including any property obtained pursuant to the Alaska Native Claims Settlement Act, as amended, except as prohibited by federal law.

d. To negotiate and enter into contracts with persons and entities of every kind and description, public and private; to represent the will of the Central Council on all occasions and in all activities; to engage in relations, negotiations, agreements, and consultations with other tribal, local, state and national governments on behalf of the Tribe; and to take such additional steps with respect to matters of the Tribe as may be required to: (i) perform, implement and give effect to the activities requiring the consent of the Tribe; and (ii) to perform, implement, give effect to and administer such consent.

e. To borrow and raise money by all lawful means, and to pledge the credit of the Tribe.

f. To employ qualified persons to render professional and technical services as needed.

g. To authorize the advance, expenditure, use, investment and reinvestment of funds on deposit in the treasury of the United States to the credit of the Central Council of Tlingit and Haida Indian Tribes of Alaska in such manner and for such purposes as may be authorized by Congress.

h. To consult with and advise any and all persons, officers and entities, public and private, concerning subjects and matters affecting the interests of the Tribe.

i. To designate Communities which may elect delegates to the Central Council, to prescribe the qualifications for delegates, to rule on the qualifications and status of those presenting themselves as delegates, and to determine all matters relating to member citizenship in the Tribe.

j. To authorize and approve constitutions for Community Councils and to delegate to such Community Councils such governmental and proprietary functions as the Central Council shall determine under such rules and regulations and subject to such limitations and conditions as the Central Council shall prescribe.

k. To hear and determine or otherwise provide for the hearing and determination of cases, controversies and matters arising within the jurisdiction of the Tribe, and to establish courts and other tribunals to exercise the judicial powers of the Tribe.

l. To provide for the establishment of standing committees of the Central Council and to prescribe their functions and jurisdictions.

m. To exercise the power of eminent domain over land or interests therein within the territory and jurisdiction of the Tribe in conformance with applicable federal law.

n. To exercise the power to tax and to establish tariffs, fees or assessments with respect to any person or entity within the territory and jurisdiction of the Tribe in conformance with applicable federal law.

o. To enact resolutions, regulations, and statutes to safeguard and promote the peace, health, safety and general welfare of the Tribe in conformance with applicable federal law.

p. To conduct and manage the affairs and property of the Tribe, and to provide services to individual member citizens of the Tribe, or to other entities owned by individual member citizens of the Tribe, including corporations organized pursuant to the Alaska Native Claims Settlement Act, as amended.

Section 2. The Central Council shall possess such powers as are incident and necessary to the execution of the powers set forth above, and such further powers as it may from time to time be granted.

Section 3. The Central Council, through either the Tribal Assembly or the Executive Council, may charter or otherwise authorize and provide for the organization of subordinate groups or entities to perform governmental, proprietary and revenue-raising enterprise functions for the Tribe and its member citizens, and to delegate to such subordinate groups or entities such powers as it shall determine under such rules and regulations and subject to such limitations and conditions as it shall prescribe.

Section 4.

a. **Sovereign Immunity of the Tribe**

The sovereign immunity of the Central Council of Tlingit and Haida Indian Tribes of Alaska may be waived only by express legislative action of the Tribal Assembly or the Executive Council after consultation with the tribal attorneys. All waivers of sovereign immunity must be preserved with the acts and resolutions of the Central Council of continuing force and effect. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Tribes. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Tribe subject thereto, court having jurisdiction pursuant thereto and law applicable thereunder.

b. **Sovereign Immunity of Subordinate Entities**

Subordinate entities of the Central Council created pursuant to Section 3 of this Article shall have the same sovereign immunity as the Central Council of Tlingit and Haida Indian Tribes of Alaska. The sovereign immunity of any such subordinate entity may be waived only by express resolution of the governing body thereof and pursuant to its organic document. Waivers of sovereign immunity of governmental subdivisions of the Central Council are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the governmental subdivision. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, and property or funds, if any, of the subordinate entity thereto, court having jurisdiction pursuant thereto and law applicable thereunder. No subordinate entity may waive the sovereign immunity of the Central Council of Tlingit and Haida Indian Tribes of Alaska, nor may any action of a subordinate entity impair or affect the credit or assets of the Central Council in any manner.

c. **Sovereign Immunity of Tlingit and Haida Community Councils**

The sovereign immunity of a Tlingit and Haida Community Council may be waived only by express legislative action of the Community Council after consultation with the Community attorneys. All waivers of sovereign immunity must be preserved with the acts and resolutions of the Community Council of continuing force and effect. Waivers of sovereign immunity of a Tlingit and Haida Community Council are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Community. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, and property or funds, if any, of the Community subject thereto, court having jurisdiction thereof and law applicable thereunder. No Community Council may waive the sovereign immunity of the Central Council of Tlingit and Haida Indian Tribes of Alaska, nor may any action of a Community Council impair or affect the credit or assets of the Central Council in any manner.

ARTICLE VIII. OFFICERS AND EXECUTIVE COUNCIL

Section 1. At its first Assembly after each general election of delegates, the Tribal Assembly shall elect from among the regular delegates the following executive officers: President, First Vice President, Second Vice President, Third Vice President, Fourth Vice President, Fifth Vice President, and Sixth Vice President, which executive officers shall comprise the Executive Council of the Central Council and serve until their successors are elected and qualified.

a. Candidates for executive office must announce their candidacy by submission of a Declaration of Intent to Serve to the Tlingit and Haida Central Office no later than ten (10) calendar days prior to the first day of Tribal Assembly at which an election of officers shall be held.

b. An incumbent President need not be a delegate to be re-elected as President.

c. The President may vote only to break a tie or when it is clear the vote of the President will affect the outcome of the issue.

Section 2. Immediately upon their election and before entering upon the duties of their offices each executive officer shall take the following oath:

> **"I, _____ [name of person] _____, do solemnly swear that I will bear true faith and allegiance to the Central Council of Tlingit and Haida Tribes of Alaska and its member citizens, that I will support the *Constitution* of the Central Council, and that I will faithfully discharge the duties of the office upon which I am about to enter, so help me God.**

Section 3. Upon the death, resignation or removal of a Vice President, each of the remaining Vice Presidents ranking below the departed Vice President shall be elevated one office and the

Governing Body shall appoint a Sixth Vice President from among the other regular delegates to serve until the next election of executive officers.

Section 4. An executive officer who is charged in writing subscribed by not less than two-fifths (2/5) of the delegates to the Tribal Assembly of the Central Council with neglect of duty or gross misconduct may be removed from office by an affirmative vote of a two-thirds (2/3) majority of the delegates; provided that before a vote on his or her removal may be taken, the executive officer concerned shall be provided with a written statement of the charges against the executive officer at least ten (10) days before the meeting of the Tribal Assembly at which the vote is taken, and shall be given a fair opportunity to be heard before the Tribal Assembly in answer to such charges prior to the vote being taken. Officers other than executive officers and judges of the Tribe's Courts shall serve at the pleasure of the Central Council and the President and actions of the Central Council or the President concerning the removal of such officers shall be final.

Section 5. Officers of and delegates to the Central Council shall receive such compensation and allowances, if any, as shall be prescribed by the Central Council, subject to the availability of funds.

ARTICLE IX. FUNCTIONS OF OFFICERS

Section 1. The President of the Central Council shall be its chief executive officer. He or she shall preside over all assemblies of the Central Council and, subject to its direction, he shall conduct and manage the business of the Central Council, execute documents and otherwise act for and on behalf of the Central Council, be a member *ex officio* of all committees of the Central Council, and exercise such other powers as may be delegated to him or her. The President may delegate authority to others to perform functions and exercise powers of his or her office, and appoint committees to assist the Central Council or the President in the performance of their functions. The President shall be entitled to vote in the Tribal Assembly in the same manner as are delegates but only to break a tie or when it is clear the vote of the President will affect the outcome of the issue.

Section 2. The Vice Presidents of the Central Council shall assist the President as called upon to do so. In the order of their designations they shall succeed to the office of the President upon the death, resignation or removal of the incumbent President and shall serve until the next Tribal Assembly at which an election to fill the vacancy shall be held.

In the absence of the President from a Tribal Assembly of the Central Council, the most senior designated Vice President available shall preside. Any of the Vice Presidents may attest acts of the President and, upon the designation of the Central Council, may serve as Secretary to the Central Council. It shall be the responsibility of the Vice President serving as Secretary at the time to see that an accurate record is kept of all actions taken and of business conducted by the Central Council or its officers. Records of the Central Council shall be available for inspection at the main office of the Council during business hours. The Vice President serving as Secretary shall promptly transmit copies of all minutes of assemblies and resolutions of the Central Council and its officers to each Tlingit and Haida Community Council and also, upon request, to any member citizen of the Tribe.

ARTICLE X. FUNCTIONS OF THE EXECUTIVE COUNCIL

When the Tribal Assembly of the Central Council is not in session the Executive Council whether assembled or not shall possess all of the powers of the Central Council and shall be able to do all things and take all actions which the Tribal Assembly of the Central Council could without limitation, except that the Executive Council shall not have the power to take any action which would constitute a repudiation or negation of specific action taken by the Tribal Assembly of the Central Council at its last assembly nor to exercise the powers of the Tribal Assembly under Article XIII.

The Executive Council shall act by affirmative majority vote of its members. A quorum shall consist of a majority of those holding the office of Executive Council and no business shall be transacted unless a quorum is present. All assemblies shall be conducted in conformance with this *Constitution*, "Standing Rules of Order" adopted by the Central Council, and *Robert's Rules of Order.* Any conflict among the preceding authorities shall be resolved in the order of precedence set forth in the preceding sentence. The President may vote only to break a tie or when it is clear the vote of the President will affect the outcome of the issue.

The Executive Council shall take reasonable steps to hold its meetings in several of the Communities entitled to elect delegates to the Central Council.

ARTICLE XI. TRIBAL COURTS

Section 1. The Central Council shall by statute establish and prescribe the functions of the Courts of the Tribe. The statute shall establish qualifications for the justices and judges of the Tribal Courts and provide for their election, provide for the employment of Court employees, and provide for rules of civil and criminal procedure and Court administration.

Section 2. The Tribal Courts shall be empowered to exercise all judicial authority of the Tribe but shall have only such jurisdiction as is delegated to the Tribal Courts by the Central Council.

Section 3. The Tribal Courts shall consist of a Tribal Supreme or Appellate Court and a Trial Court and such other courts as may from time to time be established by the Central Council.

Section 4. The Tribal Supreme or Appellate Court shall be comprised of a Chief Justice, and such number of Justices as from time to time may be deemed necessary by the Central Council in consultation with the Chief Justice and the Judiciary Committee.

Section 5. The Trial Court shall be comprised of two (2) Judges and such number of additional Judges as from time to time may be deemed necessary by the Central Council and the Judiciary Committee.

Section 6. The Chief Justice and each Trial Court Judge shall be elected at a duly convened annual meeting of the Tribal Assembly and shall serve for terms of not less than four (4) years and two (2) years respectfully. The Central Council shall by statute prescribe the method of election for Tribal Court Judges and Justices.

Section 7. A justice or judge of the Tribal Courts may be suspended or dismissed by the Judiciary Committee under procedures provided in statute, and then only for conviction of a felony while holding office, conviction of a crime involving moral turpitude within the previous five years, gross neglect of duty, malfeasance in office, or misconduct reflecting on the dignity and integrity of the Tribal Court.

ARTICLE XII. BILL OF RIGHTS

The Central Council, in exercising powers of self-government, shall not:

a. Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

b. Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizures, nor issue warrants but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

c. Subject any person for the same offense to be twice put in jeopardy;

d. Compel any person in any criminal case to be a witness against himself;

e. Take any private property for public use without just compensation;

f. Deny to any person in a criminal proceeding the right to a speedy and public trial; to be informed of the nature and cause of the accusation, to be confronted with the witnesses against the accused, to have compulsory process for obtaining witnesses in favor of the accused, and at the expense of the accused to have the assistance of counsel in defense;

g. Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six (6) months or a fine of $500 or both;

h. Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

i. Pass any bill of attainder or *ex post facto* law; or

j. Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

ARTICLE XIII. ADOPTION AND AMENDMENT

This *Constitution* shall be in force and effect from the time of its adoption by vote of a majority of the delegates elected to the Tribal Assembly of the Central Council. It may be amended by

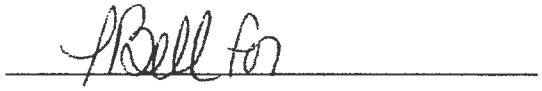
vote of two-thirds of the delegates present at any assembly of the Central Council, except amendments proposed and distributed in writing to all delegates ninety (90) days before an assembly of the Central Council may be adopted by an affirmative vote of the majority of the delegates present at that assembly.

ADOPTED this 20th day of April 2013, by the Tribal Assembly of the Central Council of Tlingit and Haida Indian Tribes of Alaska, by a vote of 122 yeas, 0 nays, 0 abstentions and 0 absence(s).

CERTIFY

President Edward K. Thomas

ATTEST



Tribal Secretary Harold Houston Sr.

TRIBAL ASSMEBLY ADOPTED CHANGES:

April 14, 2004
April 19, 2007
April 19, 2008
April 20, 2013